

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

AMERICAN EQUITY )  
MORTGAGE, INC., )  
Plaintiff, )  
vs. ) Case No. 4:06CV1167 CDP  
FIRST OPTION MORTGAGE, )  
LLC, )  
Defendant. )

**MEMORANDUM AND ORDER**

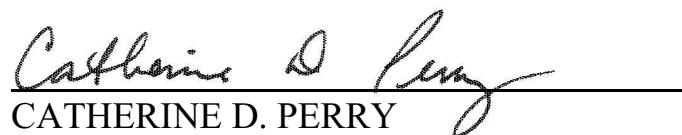
Plaintiff American Equity Mortgage, Inc. (“AEM”) requests leave of court to file a first amended complaint. The amended complaint asserts additional claims against defendant First Option Mortgage, LLC (“FOM”) and adds claims against a new defendant, Joshua Fitzwater. FOM opposes amendment of the complaint, stating that it would be prejudiced by AEM’s undue delay in bringing the additional claims.

The Federal Rules of Civil Procedure allow for liberal amendment of pleadings as justice so requires. Fed. R. Civ. P. 15(a). Although the parties to this case have already conducted some discovery in preparation for the injunctive relief hearings, allowing amendment of the complaint does not make that discovery meaningless or futile. The additional claims asserted in the amended

complaint arise out of the same facts and circumstances which came to light in the hearings, and should come as no surprise to FOM. Additionally, no case management order has been issued in this case and AEM states that amendment will not delay the mediation scheduled for this month. For all of these reasons, I find that justice requires allowing AEM to amend its complaint and FOM suffers no prejudice as a result. AEM's motion for leave to amend will be granted.

Accordingly,

**IT IS HEREBY ORDERED** that plaintiff's motion for leave to file first amended complaint [#29] is granted.



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CATHERINE D. PERRY  
UNITED STATES DISTRICT JUDGE

**SO ORDERED** this 7th day of December, 2006.